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23RD DISTRICT, NEW YORK

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Honorable Michael Chertoff  
Secretary  
U.S. Department of Homeland Security  
108 Federal Office Building  
Washington, D.C. 20502

Honorable Condoleezza Rice  
Secretary  
U.S. Department of State  
2201 C Street, N.W.  
Washington, D.C. 20520

Dear Secretary Chertoff and Secretary Rice:

I am writing to outline what I believe to be a reasonable alternative to the Departments' Western Hemisphere Travel Initiative (WHTI). Additionally, I respectfully request that a hearing be held in my Northern New York 23<sup>rd</sup> Congressional District, which is situated along the Canadian border.

I had hoped since the months that the Western Hemisphere Travel Initiative was first proposed that some progress would have been made to heed the many concerns articulated by my colleagues and me through both meetings and correspondence. Like many, I was encouraged that positive changes would be made after President Bush instructed the Departments of Homeland Security (DHS) and State (DOS) to review their original proposal to ensure that "there is enough flexibility in the new policy to accommodate regular travelers." The President's statement went on to note that requiring passports could "disrupt the honest flow of traffic."

Unfortunately, it now appears that – with few exceptions – both of your agencies remain determined to forge ahead with an unworkable and misguided proposal that fails to sufficiently consider the concerns expressed by the President, Members of Congress, impacted businesses, as well as local and state government officials. As currently written, this regulation amounts to nothing more than a "passport tax" that imposes a burdensome inconvenience on many hard-working American families, industries, and travelers. Clearly, this was not the intent of the Intelligence Reform and Terrorist Prevention Act passed by Congress earlier this year. Therefore, I hope that during this sixty day "public comment period" both agencies will be more vigilant and mindful of such submissions and comments submitted for the record. Additionally, I feel that it is premature to not only issue, but also implement, a final rule before an economic impact study has been conducted.

I would like to clearly state that I applaud DHS' recent announcement that it anticipates the acceptance of registered traveler program cards such as the Border Crossing Card (BCC), Secure Electronic Network for Travelers Rapid Inspection (SENTRI), Nexus, and Free and Secure Trade (FAST) in lieu of a passport under WHTI. As I have previously noted, the inclusion, rather than the exclusion, of affordable and acceptable documentation for crossing the border is certainly a welcome advance. However, none of these respective "frequent traveler" programs is conducive to the unplanned cross-border visit by both the average American or Canadian family. Oftentimes, individuals living in these border communities cross either North or South simply for dinner, to go shopping, to attend a sporting event, or to visit friends and relatives. Much to my dismay, this new passport requirement would discourage such spontaneous cross-border travel in both directions. I urge you not to underestimate the burden on border residents of having to obtain and carry a passport given their literal proximity to our Canadian neighbors.

Further, the potential financial burden of this proposed initiative will be significant, especially for larger families. For example, if an average family of four living in my Congressional District needed to attend a funeral in Quebec or Ontario, Canada, on short notice, the fees would be in excess of \$590, assuming the issuing process could be completed in a timely fashion. This type of "passport tax" is simply not a viable option for many.

In addition, I have repeatedly encouraged both DHS and the State Department to look closely at the provision contained in the Intelligence Reform bill that refers to utilizing "document or combination of documents." As you know, Section 7209 of this legislation provides you the discretion to waive the passport requirement for U.S. citizens. Accordingly, I again urge you to consider alternative and less expensive documentation that would establish identity and citizenship for American citizens. Such alternative documentation currently allowed at our border crossings includes driver's licenses and identification cards issued by competent state government authorities, birth certificates, Certificates of Naturalization, and Certificates of Citizenship.

With respect to driver's licenses, I remain convinced that they can be successfully utilized as sufficient documentation for cross-border travel, especially given the passage of the REAL ID bill earlier this year by Congress. In fact, it is important to note that both DHS and State Department officials indicated to me, as recently as April, that they would be inclined to accept such a 'standardized' driver's license for the purpose of identification. It would seem to me that by raising the minimum and uniform standards of driver's licenses throughout the individual states, such documents could be used as a much more credible form of identification in the future. Accordingly, I urge DHS to exercise, in a timely fashion, the authority which was vested in it in the REAL ID bill to create these minimum uniform standards for driver's licenses. Their inclusion as part of the final WHTI rule is critical.

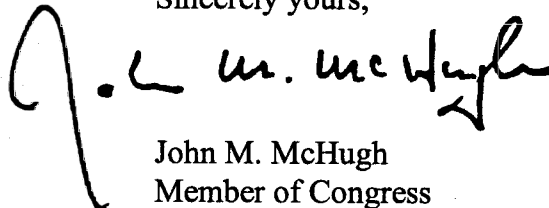
I would also point out that under WHTI, it is unclear whether videophones will still be a viable option for boaters of both countries crossing international waterways, such as those found along the St. Lawrence River. For many communities throughout my Congressional District videophones promote and protect the tourism industry which is so vital to the local economies. If it is DHS' and DOS' intent to eventually do away with videophones, then I must inquire whether consideration is being given to adding additional manned ports of entry at communities along the St. Lawrence River to provide direct immigration services? In addition, will fishing charter or ferry companies be required to check passports before accepting a patron, thus becoming "de facto" CBP officers? I respectfully request that everything be done within your authority to ensure these interests are not only protected, but remain a viable option under the WHTI for border communities.

Lastly, according to the Advanced Notice of Public Rule Making (ANPRM), which was published in the *Federal Register* on September 1, 2005, "public hearings may be held at strategic locations to provide an open forum pertaining to the proposed changes." I would like to once again respectfully request that a "field" hearing be conducted in my Upstate New York 23<sup>rd</sup> Congressional District. Such an action would provide DHS and DOS officials an opportunity to hear directly from those people who would be most impacted by this proposed regulation.

Secretary Chertoff and Secretary Rice, like most Americans, I recognize that we are living in a post-9/11 environment and that threats to our national security within our own borders have become increasingly real. At the same time, I strongly believe it imperative that we strive toward striking a necessary balance between ensuring our national security and responding to the economic and social imperatives of communities like those found in Upstate New York. I simply do not believe these two issues are mutually exclusive. I hope that we can work together in the coming weeks and months to ensure that this balance is reached and that we can accomplish our mutually-shared goals in a productive and efficient manner.

With every good wish, I remain

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. M. McHugh". The signature is fluid and cursive, with a large initial "J" and a stylized "M".

John M. McHugh  
Member of Congress

JMM/cjm